

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9 F. L. HEYWOOD, )  
10 Plaintiff, ) CASE NO. C05-0396RSM  
11 v. ) ORDER GRANTING CONSOLIDATION  
12 CELL THERAPEUTICS, INC., *et al.*, ) AND AMENDING CAPTION  
13 Defendants. )  
\_\_\_\_\_  
)

This case is one of eight filed in this District alleging securities fraud by defendants. The related cases, found at C05-0415RSM, C05-0452RSM, C05-0457RSM, C05-0639RSM, C05-0649RSM, C05-0657RSM, and C05-0739RSM, have been transferred to the undersigned District Judge as related cases, and the parties have moved to consolidate. (Dkts. #4, #8, #10, #13, #21, #24 and #28). Defendants agree that these cases should be consolidated, and therefore, do not oppose plaintiffs' motions. (Dkt. #38). Having reviewed plaintiffs' motions, defendants' response, plaintiffs' replies, and the remainder of the record, the Court does hereby find and ORDER:

(1) Plaintiffs' Motions to Consolidate (Dkts. #4, #8, #10, #13, #21, #24 and #28) are GRANTED. The cases at issue in these motions involve common questions of law and fact. Fed. R. Civ. P. 42(a); *Johnson v. Celotex Corp.*, 899 F.2d 1281, 1284 (2nd Cir. 1999). However, this Order does not substitute as an Order certifying this action as a Class Action. If the parties wish to certify a

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1 class, they must do so by moving this Court appropriately. Furthermore, any reference to a "class,"  
2 "class period," or other class-related language shall be stricken until and unless a class is certified.

3 (2) All future pleadings in C05-0415RSM, C05-0452RSM, C05-0457RSM, C05-0639RSM,  
4 C05-0649RSM, C05-0657RSM, and C05-0739RSM shall now be filed under one consolidated case  
5 number, C05-0396RSM, and shall be captioned *F.L. Heywood, et al., v. Cell Therapeutics, et al.*

6 The parties SHALL NOT designate this consolidated action as a "Class Action" until the Court grants  
7 authorization to do so. Moreover, the Court will not automatically consolidate future related cases  
8 unless and until the parties involved in those cases move this Court to do so, or unless and until this  
9 Court certifies a class.

10 (3) The parties' current pending requests to appoint lead counsel and for preservation of  
11 documents (Dkts. #3, #8, #10, #16, #20 and #28) shall be considered if and when the parties move this  
12 Court to certify the class. Any such requests currently pending shall be removed from this Court's  
13 motion calendar until such time as the parties properly move to certify a class.

14 (4) The parties shall submit a Consolidated Complaint in this action no later than 45 days from  
15 the date of this Order.

16 (5) The Clerk SHALL post a copy of this Order in the instant case, and in Case Nos. C05-  
17 0415RSM, C05-0452RSM, C05-0457RSM, C05-0639RSM, C05-0649RSM, C05-0657RSM, and  
18 C05-0739RSM, and shall send a copy to all counsel of record in those cases.

19  
20 DATED this 2nd day of June, 2005.

21  
22 /s/ Ricardo S. Martinez  
23 RICARDO S. MARTINEZ  
24 United States District Judge  
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